IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 25445 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE MD SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JAGDISHBHAI PARSHOTAMBHAI PATEL - Petitioner(s)
Versus
DISTRICT MAGISTRATE & 3 - Respondent(s)

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Appearance :
MR PRAVIN GONDALIYA for Petitioner(s) : 1,
RULE SERVED BY DS for Respondent(s) : 1,
Mr LR Pujari, AGP for Respondent(s) : 2, 4,
MR M.IQBAL A SHAIKH for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 07/12/2007

ORAL JUDGMENT

1. The petitioner-detenu has challenged the order of detention dated 3.8.2007 by the respondent No.1, the District Magistrate, Vadodara by way of

this petition. The petitioner is detained under the provisions of Prevention of Black Marketing and Maintenance of Supply of Essential Commodities Act, 1980 (for short, the “Act”).

Heard the learned advocate for the petitioner and the learned AGP for the State.

2. It is submitted by the learned advocate for the petitioner that till today, the central Government has not decided the representation forwarded by the State Government and it is still pending.

3. Learned AGP submitted that as they are awaiting further remarks from the State Government, the Central Government has not decided the representation. It is to be noted that, as per the submissions of the learned AGP, at the time of passing the order of detention, they have sent the grounds of detention along with all the materials on which the detaining authority passed the order of detention were sent to the Central Government and so

the grounds of detention and the relevant materials were already with the Central Government and on the basis of this, they could very well decide the representation submitted by the detenu and sent the report to the State Government.

4. Taking into consideration the submissions made by the learned AGP that the State Government has already forwarded the English version of the documents which were considered by the detaining authority while passing the order, to the Central Government on 27.8.2007. Then again they called for the comments/parawise remarks on the representation of the detenu on 25.9.2007. The State Government replied to that communication on 25.10.2007 along with the parawise remarks. Till the date of filing of this reply by the Central Government, the representation was not decided.

5. From the above, it is also pertinent to note that after a lapse of one month, the Central Government has asked for English version of the papers and remarks for which no explanation is given

by the Central Government.

6. Taking into consideration the above facts, in the opinion of this court, for not deciding the representation by the Central Government, no sufficient or cogent reasons or for causing the delay in deciding the representation made by the detenu is given, and till today, it is not decided and hence the order passed by the detaining authority is required to be quashed and set aside.

7. In the result, this Special Civil Application is allowed. The order of detention dated 03.8.2007 passed by the District Magistrate, Vadodara is hereby quashed and set aside. The detenu is ordered to be set at liberty forthwith, if not required in any other case. Rule is made absolute accordingly. Direct service is permitted.

[M.D. SHAH, J.]

msp